

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARK THOMAS, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Civil Action No. 10-1555
	)	
v.	)	Judge Cercone
	)	Magistrate Judge Bissoon
LAGONI ERECTION, INC.,	)	
	)	
Defendant.	)	

**ORDER**

Plaintiffs have filed a Motion for Default Judgment, wherein they request an award of attorney’s fees. *See* Pls.’ Mot. for Default J. (Doc. 5) at ¶ 10. Plaintiffs’ request for fees precludes the entry of default judgment by the Clerk of Court. *See Int’l. Union of Operating Eng’rs., Local 4 v. Stanley Excavation*, 243 F.R.D. 25, 27 n.5 (D. Me. 2007) (fees request “prevents the [C]lerk from entering a judgment under Rule 55(b)(1), since the reasonableness of the attorney’s fees necessitates [judicial review]”).

By **January 21, 2011**, counsel shall supplement Plaintiffs’ evidence and/or arguments in support of the request for attorney’s fees. *Compare* Pls.’ Mot. at ¶ 10 (seeking attorney’s fees in amount of 20% of Plaintiffs’ potential gross recovery under CBA) *with, e.g., Colucci v. MPC Computers, LLC Severance Plan For Emps.*, 2009 WL 807638, \*1-2 (D. Idaho Mar. 24, 2009) (citing Third Circuit decision noting general preference for lodestar, as opposed to contingency-based, fees calculations under ERISA, and basing fee award on affidavits of counsel and

accompanying billing records).<sup>1</sup>

IT IS SO ORDERED.

January 12, 2011

s/Cathy Bissoon  
Cathy Bissoon  
United States Magistrate Judge

cc (via email):

All Counsel of Record

cc (via 1<sup>st</sup> Class U.S. Mail):

Lagoni Erection, Inc.  
510 McClane Farm Road  
Washington, PA 15301

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<sup>1</sup> Should Plaintiffs continue to urge for a contingency-based award, their counsel should attach to their supplemental filing(s) a copy of the CBA provisions relevant to their request. Plaintiffs also should submit evidence in support of a lodestar award, in the event that their contingency-based request is denied.